



**MILPITAS CITY COUNCIL MEETING AGENDA  
NOVEMBER 7, 2006**

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**6:00 P.M. (CLOSED SESSION) • 7:00 P.M. (PUBLIC BUSINESS)  
455 E. CALAVERAS BOULEVARD**

**SUMMARY OF CONTENTS**

- I. ROLL CALL (6:00 p.m.)**
- II. ADJOURN TO CLOSED SESSION**
  - 1) PUBLIC EMPLOYEE APPOINTMENT/EMPLOYMENT**  
(Pursuant to CA Government Code §54957) Title: City Manager
  - 2) CONFERENCE WITH LABOR NEGOTIATORS - COLLECTIVE BARGAINING**  
(Pursuant to CA Government Code §54957.6) City Negotiator: Carmen Valdez  
Employee Organizations: Milpitas Professional and Technical Group (ProTech),  
Milpitas Mid Management/Confidential (LIUNA)  
Under Negotiation: Wages, Hours, Benefits, and Working Conditions
- III. CLOSED SESSION ANNOUNCEMENTS: Report on action taken in Closed Session, if required pursuant to CA Government Code Section 54957.1, including the vote on abstention of each member present**
- IV. PLEDGE OF ALLEGIANCE (7:00 p.m.)**
- V. INVOCATION (Vice Mayor Gomez)**
- VI. APPROVAL OF COUNCIL MEETING MINUTES**
  - September 29, 2006
  - October 11, 2006
  - October 17, 2006
- VII. SCHEDULE OF MEETINGS**
- VIII. PRESENTATION**

Proclamation for Veterans Day, November 11, 2006
- IX. PUBLIC FORUM**

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Members of the audience are invited to address the Council on any subject not on tonight's agenda. Speakers must come to the podium, state their name and city of residence for the Clerk's record, and limit their remarks to three minutes. As an unagendized item, no response is required from City staff or the Council and no action can be taken; however, the Council may instruct the City Manager to agendize the item for a future meeting.

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- X. ANNOUNCEMENTS**

**XI. ANNOUNCEMENT OF CONFLICT OF INTEREST**

**XII. APPROVAL OF AGENDA**

**XIII. CONSENT CALENDAR (Items with asterisks\*)**

**XIV. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING**

- RA1. Call to Order by the Mayor/Chair**
- RA2. Roll Call**
- RA3. Approval of Minutes (October 17, 2006)**
- RA4. Approval of Agenda and Consent Calendar**
- RA5. Accept the City's Comprehensive Annual Financial Report, Component Unit Financial Statements, And Other Related Annual Audited Reports for the Fiscal Year Ended June 30, 2006 (Staff Contact: Emma Karlen, 586-3145)**
- RA6. City of Milpitas Financial Status Report for the Three Months Ended September 30, 2006 (Staff Contact: Emma Karlen, 586-3145)**
- \*RA7. City of Milpitas Investment Portfolio Status Report for the Quarter Ended September 30, 2006 (Staff contact: Emma Karlen, 586-3145)**
- \*RA8. Authorize City Manager To Execute Agreement Amendment And Approve Budget Appropriation: JMH Weiss, Inc., Abel Street Midtown Improvements, Project No. 8157 (Staff Contact: Mehdi Khaila, 586-3328)**
- RA9. Agency Adjournment**

**XV. REPORTS OF OFFICERS, COMMISSIONS, AND COMMITTEES**

**City Council**

- \* 1. Approve Mayor Esteves' Recommendations for Appointments to City Commissions (Contact: Mayor Esteves, 586-3029)**
- \* 2. Approve Mayor's Recommendation for \$1,000 Donation to the Milpitas Robotics Club (Contact: Mayor Esteves, 586-3029)**
- \* 3. Approve Mayor's Recommendation for \$500 Donation to Student for Joining Softball Team (Contact: Mayor Esteves, 586-3029)**

**Arts Commission**

- \* 4. Approve Changes to Arts Commission Meeting Schedule and Bylaws (Staff Contact: Renee Lorentzen, 586-3286)**

**XVI. NEW BUSINESS**

- \* 5. Approve Two Easements: Public Utility Easement and "No-Build" Easement, Associated with the KB Home Project, Tract No. 9699, Project No. 3160 (Staff Contact: Mehdi Khaila, 586-3328)**

- \* 6. **Accept FY 2006-07 Department of Conservation Grant Funding And Appropriate Grant Funds (Staff Contact: Marilyn Nickel, 586-3347)**
- \* 7. **Authorize the Purchasing Agent to Dispose of Surplus Sedan Vehicle (Staff Contact: Chris Schroeder, 586-3161)**
- \* 8. **Authorize Temporary Dedicated Building Inspector (Staff Contact: Keyvan Irannejad, 586-3244)**

## **XVII. ORDINANCE**

- \* 9. **Adopt Ordinance No. 196.8 Amending The Milpitas Municipal Code To Prohibit The Amplification Of Sound At Gill Park (Staff Contact: Richard D. Pio Roda, 586.3040)**

## **XVIII. RESOLUTION**

- \* 10. **Adopt Resolution Granting Final Acceptance: 2005 Street Resurfacing, Project No. 4223 (Staff Contact: Andrew Brozyna, 586-3315)**

## **XIX. BIDS AND CONTRACTS**

- \* 11. **Approve Consultant Agreement with RMC Water and Environment for Water and Sewer Modeling and Impact Fee Review (Staff Contact: Marilyn Nickel, 586-3347)**
- \* 12. **Authorize the City Engineer to Execute a Contract Change Order: Pacific Underground Construction, Sewer Deficiency and Structural Correction Program – Open Cut, Project No. 6073 (Staff Contact: Greg Armendariz, 586-3317)**
- \* 13. **Approve Agreement for a Debris Box with Sonrise Consolidated (Staff Contact: Marilyn Nickel, 586-3347)**
- \* 14. **Approval of the 2006 Edward Byrne Justice Assistance Grant (JAG) Spending Plan (Staff Contact: Charlotte Pang, 586-2432)**
- \* 15. **Award the Bid for a New Mail Machine to Pitney Bowes (Staff Contact: Chris Schroeder, 586-3161)**
- \* 16. **Approve Contract for a Dental Plan with Delta Dental (Staff Contact: Carmen Valdez, 586-3086)**
- \* 17. **Award Construction Contract to Blocka Construction: Well Upgrade Program, Project No. 7076 – Phase II, Pinewood Well (Staff Contact: Andrew Brozyna, 586-3315)**

## **XX. ADJOURNMENT**

**NEXT REGULARLY SCHEDULED COUNCIL MEETING  
TUESDAY, NOVEMBER 21, 2006 AT 7:00 P.M.**

**KNOW YOUR RIGHTS UNDER THE OPEN GOVERNMENT ORDINANCE**

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and the City operations are open to the people's review. FOR MORE INFORMATION ON YOUR RIGHTS UNDER THE OPEN GOVERNMENT ORDINANCE OR TO REPORT A VIOLATION OF THE ORDINANCE, CONTACT THE OPEN GOVERNMENT COMMISSION at the City Attorney's office at Milpitas City Hall, 455 E. Calaveras Blvd., Milpitas, CA 95035  
E-mail: [rpioroda@ci.milpitas.ca.gov](mailto:rpioroda@ci.milpitas.ca.gov) / Fax: 408-586-3030 / Phone: 408-586-3040

*A free copy of the Open Government Ordinance is available from the City Clerk's Office or by visiting the City's website [www.ci.milpitas.ca.gov](http://www.ci.milpitas.ca.gov), select Open Government Ordinance under News Features.*

**BECOME A CITY COMMISSIONER!**

Currently, there are openings on the following Commissions:

*Economic Development Commission (Hotel Rep)  
Mobile Home Park Rental Review Board  
Planning Commission  
Recycling and Source Reduction Advisory Commission  
Sister Cities Commission (Alternate)*

Applications are available online at [www.ci.milpitas.ca.gov](http://www.ci.milpitas.ca.gov) or outside the City Council Chambers. Contact the City Clerk's Office (586-3003) for information.

## **AGENDA REPORTS**

### **XIV. JOINT REDEVELOPMENT AGENCY AND CITY COUNCIL MEETING**

#### **RA5. Accept the City's Comprehensive Annual Financial Report, Component Unit Financial Statements, And Other Related Annual Audited Reports For The Fiscal Year Ended June 30, 2006 (Staff Contact: Emma Karlen, 586-3145)**

**Background:** Transmitted here is the Comprehensive Annual Financial Report (CAFR) of the City of Milpitas, Milpitas Redevelopment Agency Component Unit Financial Statements, Single Audit Report, Bicycle/Pedestrian Projects Financial Statements, Agreed Upon Procedures Report on Compliance with the Appropriations Limit Increment and the Memorandum on Internal Control Structure for the fiscal year ended June 30, 2006.

##### **Comprehensive Annual Financial Report (CAFR) of the City of Milpitas**

The CAFR presents the operations and financial activity of all the City's various funds, including the General Fund. It includes an unqualified audit opinion from Maze & Associates, the City's external auditors, that the financial statements present fairly the results of operations for the year ended June 30, 2006, in conformance with Generally Accepted Accounting Principles (GAAP).

##### **Milpitas Redevelopment Agency Component Unit Financial Statements**

The Milpitas Redevelopment Agency is a component unit of the City of Milpitas. The accompanying component unit financial statements present the operations and financial activity of the Milpitas Redevelopment Agency including the Agency's redevelopment project fund and housing reserve fund. The Agency's Component Unit Financial Statements include an unqualified audit opinion from Maze & Associates, the Agency's external auditors, that the financial statements present fairly the results of operations for the year ended June 30, 2006, in conformance with GAAP. The report from Maze & Associates also includes a Compliance Report indicating that the Agency complied, in all material respects, with provisions of laws and regulations contained in the Guidelines for Compliance Audits of California Redevelopment Agencies issued by the State Controller's Office.

##### **Single Audit Report**

The Single Audit Report for the fiscal year ended June 30, 2006 includes the Summary of Findings and Questioned Costs, Schedule of Expenditures of Federal Awards, Report on Compliance and on Internal Control Over Financial Reporting Based on an Audit of Financial Statements Performed in Accordance with Government Auditing Standards, and the Report on Compliance and Internal Control Over Compliance Applicable to Each Major Federal Award Program. These reports did not disclose any reportable conditions, or material weaknesses, although the auditors found an instance of non-compliance due to errors in time sheet entry that underreported staff time spent on administering the Community Development Block Grant (CDBG) program. However, these errors did not result in any undercharging to CDBG as the City had already reached the maximum amount that could be charged for the administration costs of this program. The City will implement a reconciliation process to ensure that all the staff time that could be charged to these various grant programs are entered correctly.

##### **Bicycle/Pedestrian Projects Financial Statements**

The Bicycle/Pedestrian Projects Financial Statements includes Bicycle/Pedestrian Projects that were developed using Transportation Development Act (TDA) grants. The auditor issued an unqualified opinion on these statements.

##### **Agreed Upon Procedures Report on Compliance with the Appropriations Limit Increment**

This report shows the auditor applied specific procedures to validate the City's Appropriations Limit calculations.

### **Memorandum on Internal Control Structure**

Under generally accepted auditing standards, our auditors are encouraged to report certain matters regarding the City's internal control structure. The City's auditors have provided such a report in their Memorandum on Internal Control Structure ("Management Letter") for the Year Ended June 30, 2006. This report includes management response to the auditor's letter. It should be noted that the auditors do not view any of their comments as material weaknesses or significant deficiencies. Rather, they represent noteworthy items from an objective and independent perspective. In their report, the auditor pointed out that the City should develop a policy for the usage of fuel and usage of City vehicles. Staff concurs and will develop such policies in the next few months.

**Recommendation:** Receive from staff the Comprehensive Annual Financial and other Reports.

#### **RA6. City of Milpitas Financial Status Report For The Three Months Ended September 30, 2006 (Staff Contact: Emma Karlen, 586-3145)**

**Background:** As of September 30, 2006, the General Fund revenues were approximately \$1.75 million below the revenues received for the same period in FY 05-06. The differences were primarily due to a one-time \$1.1 million motor vehicle in-lieu tax repayment from the State in FY 05-06 which is non-recurring in FY 06-07. Sales tax also showed a decrease of \$325,000 or 12.7% compared to one year ago due to decline in sales in three business segments: business to business, construction, and transportation. Building permit revenue showed a decrease of approximately \$364,000, primarily due to a timing difference of revenue collection. It is still too early to tell whether the three months result is representative of what the City should expect for the entire year.

The City departments are on track with their expenditures. It should be noted there are several departments that exceeded 25% spending for the first three months. However, these spending patterns are typical due to various expenditures that need to be paid at the beginning of the fiscal year rather than being spread out throughout the year. Examples of such expenditures include workers compensation insurance premium, license fees for computer system software, as well as the contribution to the Chamber of Commerce from the City Council budget.

Staff will continue to monitor the General Fund budget and update the Council/Agency on the financial status.

**Recommendation:** Receive staff report on the first quarter of the fiscal year.

#### **\*RA7. City of Milpitas Investment Portfolio Status Report for the Quarter Ended September 30, 2006 (Staff contact: Emma Karlen, 586-3145)**

**Background:** In compliance with the California Government Code and the City's Investment policy, the City of Milpitas Investment Report for the quarter ended September 30, 2006 is submitted for your review and acceptance.

The Portfolio Summary Report included in the Council's packet provides a summary of the City's investments by type. It lists the par value, market value, book value, percentage of portfolio, term, days to maturity and the equivalent yields for each type of investment. The Portfolio Details Report provides the same information for each individual investment in the City's portfolio as of September 30, 2006.

As of September 30, 2006, the principal cost and market value of the City's investment portfolio was \$226,791,072 and \$225,571,949 respectively. When market interest rates increase after an investment is purchased, the market value of that investment decreases. Conversely, when market interest rates decline after an investment is purchased, the market value of that investment

increases. If the investments are not sold prior to the maturity date, there is no market risk. Therefore, in accordance with the City's investment policy, all investments are held until maturity to ensure the return of all invested principal.

The City's effective rate of return for the period ended September 30, 2006 was 3.59%. The comparative benchmarks for the same period were 4.77% for LAIF (Local Agency Investment Fund) and 4.73% for the 12-month average yield of the 2-year Treasury Note. Excluding the long-term GNMA securities and Repurchase Investment Agreement, the weighted average maturity of the portfolio was 359 days.

The investment portfolio is in compliance with the City's investment policy. A combination of securities maturing, new revenues, and tax receipts will adequately cover the anticipated cash flow needs for the next six months. Cash flow requirements are continually monitored and are considered paramount in the selection of maturity dates of securities.

**Recommendation:** Receive the investment report for the quarter ended September 30, 2006.

**\*RA8. Authorize City Manager To Execute Agreement Amendment And Approve Budget Appropriation: JMH Weiss, Inc., Abel Street Midtown Improvements, Project No. 8157 (Staff Contact: Mehdi Khaila, 586-3328)**

**Background:** On March 16, 2004, the Agency awarded a consultant contract to JMH Weiss, Inc. to provide base mapping, utility mapping, and to design street improvements on Abel Street from Weller Lane to Great Mall Parkway to address the appropriate upgrades and additions required to create a boulevard corridor on Abel Street.

Staff recommends that JMH Weiss perform additional consulting services within the project boundary. Services will include update traffic signal design, evaluation of value engineering options, revise sanitary sewer siphon design at Hetch-Hetchy, and attend design coordination meetings. Staff has negotiated a fee for these services not to exceed \$13,120, which is considered reasonable for the work. An additional budget appropriation is necessary for this work. Funds are available from the County/City/KB Infrastructure fund.

**Recommendation:**

1. Authorize the City Manager to execute the agreement amendment with JMH Weiss, Inc. in the amount of \$13,120, subject to approval as to form by the City Attorney.
2. Approve budget appropriation in the amount of \$13,120 from County/City/KB Infrastructure fund into Project No. 8157 for the Abel Street Improvements.

**RA9. Agency Adjournment**

**XV. REPORTS OF OFFICERS, COMMISSIONS, AND COMMITTEES**

**City Council**

**\* 1. Approve Mayor Esteves' Recommendations for Appointments to City Commissions (Contact: Mayor Esteves, 586-3029)**

**Background:** Mayor Esteves recommends the following Milpitas residents be re-appointed to Commissions as noted below:

**Community Advisory Commission**

Appoint Reena Choudhury (current Alternate No. 2) as Alternate No. 1 to a term that expires January 2007.

Appoint Heidi Hai T. Pham (current Alternate No. 3) as Alternate No. 2 to a term that expires January 2007.

Appoint Chinedu Nwobi (current Alternate No. 4) as Alternate No. 3 to a term that expires January 2008.

Appoint Viraminder Meharu as Alternate No. 4 to a term that expires January 2008.

Youth Advisory Commission

Re-appoint Alex Tran to a term that expires September 2007.

Appoint Neil Sharma as Alternate No. 4 to a term that expires September 2007.

**Recommendation:** Move to approve the Mayor's recommended Commission appointments.

- \* 2. **Approve Mayor's Recommendation for \$1,000 Donation to the Milpitas Robotics Club (Contact: Mayor Esteves, 586-3029)**

**Background:** The Mayor received a request from Milpitas High School senior Aaron Manley of the Milpitas Robotics Club, for donations toward the club's registration fees for the FIRST competition later this year.

Funding would most likely come from the City Council's Community Promotions Unallocated budget, which has a current balance of \$5,240. In 2005, the City Council authorized a \$1,000 contribution, and in 2003 authorized a \$500 contribution to the Club.

**Recommendation:** Approve Mayor Esteves' recommendation for a donation in the amount of \$1,000 to the Milpitas Robotics Club.

- \* 3. **Approve Mayor's Recommendation for \$500 Donation to Student for Joining Softball Team (Contact: Mayor Esteves, 586-3029)**

**Background:** Mayor Esteves received a request for a donation to assist Milpitas High School Senior Brittney Gutierrez in her efforts to join the San Jose Strikers fast pitch softball team.

Council may consider the Mayor's recommendation in support of Ms. Gutierrez. Funding may be approved from the Community Promotions Unallocated budget line item. If not, City Council can indicate where the funding would come from.

**Recommendation:** Move to approve the Mayor's recommendation of a donation in the amount \$500.00 to Milpitas H.S. senior Brittney Gutierrez, in to order to defray registration and travel costs for participating in the San Jose Strikers softball team.

**Arts Commission**

- \* 4. **Approve Changes to Arts Commission Meeting Schedule and Bylaws (Staff Contact: Renee Lorentzen, 586-3286)**

**Background:** At its September 26, 2006 special Arts Commission meeting, the Commission discussed changing their meeting schedule to meet every month. The majority of Commissioners previously voted to change the Arts Commission meeting dates - due to the creation of the Public Art Committee (PAC) - on September 25, 2005. At the recent meeting, Commissioners voted unanimously to return to monthly meetings again, starting November 27, 2006. The meeting schedule change is recommended to meet the Arts Commissioners' needs, as they did not have sufficient time to accomplish Work Plan items when meeting every other month. The Arts Commission would meet each month on the fourth Monday. For months when the PAC also meets,



the Commission will meet at 6:00 PM, with a meeting length restriction of one hour. During months when the PAC does not meet, the Arts Commission will meet at 7:00 pm.

The meeting schedule would be as follows:

January 2007 – 6:00 pm\*\*

February 2007 – 7:00 pm

March 2007 – 6:00 pm\*\*

April 2007 – 7:00 pm

May 2007 – 6:00 pm\*\*

June 2007 – 7:00 pm

July 2007 – 6:00 pm\*\*

August 2007 – 7:00 pm

September 2007 – 6:00 pm\*\*

October 2007 – 7:00 pm

November 2007 – 6:00 pm\*\*

December 2007 – 7:00 pm

\*\* 1 hour

Included in the Council's agenda packet are: approved September 26, 2006 special Arts Commission meeting minutes and the proposed changes to the Bylaws.

**Recommendation:** Approve changes to the Arts Commission's meeting schedule and the changes to the Arts Commission Bylaws.

## **XVI. NEW BUSINESS**

- \* **5. Approve Two Easements: Public Utility Easement and “No-Build” Easement, Associated with the KB Home Project, Tract No. 9699, Project No. 3160 (Staff Contact: Mehdi Khaila, 586-3328)**

**Background:** As part of the KB Home residential project, the Elm Park parcel was recently granted to City. It is now necessary that two easements be recorded on this parcel: (1) a 10-foot wide public utility easement for the benefit of PG&E to accommodate the undergrounding of the existing overhead utilities and (2) a 5-foot wide “no-build” easement for the benefit of the residential development being constructed by KB Home to satisfy the Building Code requirements.

The plats and legal descriptions for these easements have been prepared and are ready for recordation. Copies of these easement documents are included in the Council agenda packet.

**Recommendation:**

1. Approve Grant of a “No-Build” Easement on the Elm Park parcel, subject to approval by the City Attorney.
  2. Approve Grant of Public Utility Easement to PG&E, subject to approval by the City Attorney.
- \* **6. Accept FY 2006-07 Department of Conservation Grant Funding And Appropriate Grant Funds (Staff Contact: Marilyn Nickel, 586-3347)**

**Background:** On May 15, 2001, and October 7, 2003, Council adopted Resolutions No. 7094 and No. 7351, respectively, that authorized annual submittals for grant funding requests to the Department of Conservation, Division of Recycling Funds (DOC). Staff is pleased to report that the City has received a FY06-07 award of \$17,441 that may be used to support public information outreach for residential and school recycling education programs. Included in the Council packet is a Budget Appropriation Form to accept the FY 2006-07 DOC award for a total of \$17,441.

**Recommendation:** Accept FY 2006-07 Department of Conservation grant funding and appropriate grant funds.

- \* 7. **Authorize the Purchasing Agent to Dispose of Surplus Sedan Vehicle (Staff Contact: Chris Schroeder, 586-3161)**

**Background:** The City has one vehicle that has reached the end of its useful life. The cost to repair the vehicle exceeds its value and it has been removed from service. Nation Wide Auction estimates the value of the vehicle at auction to be as follows:

1994 Ford Crown Victoria license # 2784, estimated value: \$1,500

Staff requests authorization to dispose of the vehicle at auction, pursuant to section I-2-8.03 of the Milpitas Municipal Code "Disposal of More Than \$1,000."

**Recommendation:** Approve the request to dispose of the Ford Sedan vehicle, as specified.

- \* 8. **Authorize Temporary Dedicated Building Inspector (Staff Contact: Keyvan Irannejad, 586-3244)**

**Background:** KB Home is requesting an additional dedicated full time building inspector for Elmwood/Terra Serena Project, to provide continuous and uninterrupted service for the duration of construction. Such service is currently provided by the City of Milpitas to KB Home and proved to be beneficial to both sides. It allows the City to provide a high level of customer service by considerably reducing the number of re-inspections, streamlining and maintaining construction schedule and minimizing the number of construction revisions. Existing workload will not allow staff to provide a dedicated building inspector from current staff to the KB project and thus, necessitates the hiring of an additional temporary inspector.

The salary, benefits and overhead expenses for a temporary building inspector is \$159,340 per year, which would be reimbursed by the developer.

With City Council authorization, funds provided by the developer will be deposited into the General Fund and Building & Safety budget would then need to be adjusted by the same amount.

**Recommendation:** Approve developer's request for one temporary Building Inspector for services at the KB Home Terra Serena project site. Developer will pay the full cost of the service, including salary and benefits of the building inspector. The estimated costs for the remainder of the fiscal year is \$99,587.

## **XVII. ORDINANCE**

- \* 9. **Adopt Ordinance No. 196.8 Amending the Milpitas Municipal Code To Prohibit The Amplification Of Sound At Gill Park (Staff Contact: Richard D. Pio Roda, 586.3040)**

**Background:** At the City Council meeting on October 3, 2006, the City Council discussed prohibiting the amplification of sound at Gill Park, per the request of residents in the park's surrounding neighborhoods. Currently, park users must obtain a permit from the City Manager's office, allowing the amplification of sound during park use. The City Council, at its October 17, 2006 regular meeting introduced an ordinance to amend the Milpitas Municipal Code to prohibit the amplification of sound by electronic means at Gill Park only, consistent with the City Council's direction at its October 3<sup>rd</sup> meeting. This item is for the second reading and adoption of the introduced ordinance.

**Recommendation:** Waive second reading and adopt Ordinance No. 196.8, amending the Milpitas Municipal Code to prohibit the amplification of sound at Gill Park.

## **XVIII. RESOLUTION**

- \* **10. Adopt Resolution Granting Final Acceptance: 2005 Street Resurfacing, Project No. 4223 (Staff Contact: Andrew Brozyna, 586-3315)**

**Background:** This project, which was initially accepted on October 4, 2005, has passed the one-year warranty period. A satisfactory final inspection has been made of the public improvements of various streets throughout the City that include street resurfacing, some curb and gutter replacement, and sidewalk repair. Therefore, the Council may grant final acceptance and the contractor's bond may be released.

**Recommendation:** Adopt resolution granting final acceptance of Project No. 4223 and release of the bond.

## **XIX. BIDS AND CONTRACTS**

- \* **11. Approve Consultant Agreement with RMC Water and Environment for Water and Sewer Modeling and Impact Fee Review (Staff Contact: Marilyn Nickel, 586-3347)**

**Background:** The Planning Department has received several applications for General Plan Amendments with higher densities than identified in the Water and Sewer Master Plans, resulting in a higher water and sewer demand. A single developer project is unlikely to cause insufficient capacity in a pipeline, but the cumulative effect of several developer projects could impact the existing pipeline infrastructure and also affect planned capital improvement projects. In addition, it is necessary to review the connection fee, treatment plant fee and impact fee rate structures to insure adequate cost recovery.

Staff has negotiated a scope of work with RMC Water and Environment for this work. RMC developed the hydraulic models and reviewed other fees for the City and is experienced in this work, totaling a not-to-exceed amount of \$38,780, based on time and materials. Sufficient funds are available in the Utility Engineering Operating budget.

**Recommendation:** Award consultant agreement to RMC Water and Environment to perform hydraulic analysis and review connection and treatment fee structures, subject to approval as to form by the City Attorney.

- \* **12. Authorize the City Engineer to Execute a Contract Change Order: Pacific Underground Construction, Sewer Deficiency and Structural Correction Program – Open Cut, Project No. 6073 (Staff Contact: Greg Armendariz, 586-3317)**

**Background:** The City Council awarded this project to Pacific Underground Construction on August 1, 2006. The project will provide a replacement of approximately 2,200 feet of sewer lines at various locations throughout the City, to correct structural deficiencies and differential settlement problems. Construction is underway with an anticipated completion date in early November 2006, weather pending.

A conflict was discovered at the intersection of Carnegie Drive and Edsel Drive where the new sewer main crossed under the existing water main with less than an inch of clearance. The California Department of Health Services requires a minimum of twelve inches between the crossing of a water line and sewer line. Therefore, a relocation of the water main was determined to be necessary. The Contractor has provided a "not to exceed" amount of \$31,750.00, which staff has determined to be reasonable. The approval of the contract change order is recommended. Sufficient funds are available in the project budget for this change order.

**Recommendation:** Authorize the City Engineer to execute the Contract Change Order for Pacific Underground Construction in the amount of \$31,750.00.

- \* 13. **Approve Agreement for a Debris Box with Sonrise Consolidated (Staff Contact: Marilyn Nickel, 586-3347)**

**Background:** In accordance with Title V, Chapter 200 of the Milpitas Municipal Code, debris box haulers are required to apply for an agreement authorizing the hauler to engage in the business of collecting and disposing of non-organic solid waste and/or construction and demolition debris produced, kept or accumulated within the city limits of Milpitas. The haulers are required to pay the City a compensatory fee equal to 12% of the total gross receipts actually collected or received. Staff has reviewed the most recently submitted application and recommends approval of the agreement.

**Recommendation:** Authorize the City Manager to approve an agreement for a debris box with Sonrise Consolidated, subject to approval as to form by the City Attorney.

- \* 14. **Approval of the 2006 Edward Byrne Justice Assistance Grant (JAG) Spending Plan (Staff Contact: Charlotte Pang, 586-2432)**

**Background:** On March 1, 2006, the City of Milpitas, along with the cities of Gilroy, Mountain View, San Jose, Santa Clara, and Sunnyvale, entered into an Interlocal Agreement entitled, "Interlocal Agreement, Agreement Between Cities and the County of Santa Clara" for the administration of JAG grant funds, with the County acting as the fiscal agent. Under the terms of the agreement, the City of Milpitas will receive \$12,159, which may be used for a range of activities to prevent and control crime, including personnel, equipment and training supplies to support law enforcement and prevention programs. The City of Milpitas Police Department plans to expend the funds for the purchase of a Global Positioning System (GPS) tracker and eight "Stop Stick" Tire Deflation Devices.

**Recommendation:** Approve appropriation in the amount of \$12,159 into the police operating budget, for expenditure of the Justice Assistance Grant.

- \* 15. **Award the Bid for a New Mail Machine to Pitney Bowes (Staff Contact: Chris Schroeder, 586-3161)**

**Background:** The City currently has an Ascom-Hassler analog mail-processing machine. Due to changing US Postal Regulations the City is required to update to digital equipment by December 30, 2006. The purchase of this equipment was included in the FY 06-07 budget. A Request for Proposal (RFP) was sent to the major manufacturers Francotyp-Postalia, Neopost, and Pitney Bowes, who all submitted proposals. On site demonstrations of all three pieces of equipment were performed at City Hall. A staff committee reviewed and evaluated all three machines. Based on the evaluation and testing, the committee determined that the Pitney Bowes machine had superior functionality and greater ease of operation. It is estimated that the new equipment will cut the time required to process the mail in half, allowing staff to take on bulk mailings which are currently outsourced. This will reduce the City's operating cost by an average of two cents per piece of mail processed, approximately \$1,350 per year.

Cost of the purchase and installation of the new machine is \$29,684.32. Funds for this purchase are available from the Equipment Replacement Fund 500-930-4873.

**Recommendation:** Authorize disposal of the existing analog postal machine and award bid to replace it with a new digital machine from Pitney Bowes.

- \* 16. **Approve Contract for a Dental Plan with Delta Dental (Staff Contact: Carmen Valdez, 586-3086)**

**Background:** The City is currently self-funded for dental and has had an agreement with TLC Administrators since July 1, 1999. The self-funded dental program covers employees in Protech, MSA, MEA, Mid Management/Confidential and Unrepresented. The City recently met and conferred in good faith with the above bargaining units to make a change from TLC, the current administrator to a self-funded Delta Dental Pool effective January 1, 2007. The agreement is for a one-year pilot program, which - at the end of the year - will be evaluated for reduction in costs, administration and overall effectiveness of the program and to make a determination whether to adopt, continue, alter, or discontinue the program. The proposed plan is projected to achieve a substantial cost savings of approximately \$181,000 annually to the City, while nevertheless still providing excellent dental coverage to City employees and officials.

In the interest of improving dental coverage and improving claims administration services, staff recommends approval of a contract agreement with Delta Dental. The City's contribution will not increase but, in fact, will decrease as a result of the execution of the proposed contract with Delta Dental. The current premium is \$190 per employee per month. The proposed premium is \$165.17 per employee per month. Included in the agenda packet is a copy of the side letter agreement, the benefit highlights, and the cost savings comparison for Council review.

**Recommendation:** Authorize the City Manager to execute a contract with Delta Dental effective January 1, 2007 through December 31, 2007 subject to approval by the City Attorney. There are sufficient funds in the FY 2006-07 budget.

- \* 17. **Award Construction Contract to Blocka Constructions: Well Upgrade Program, Project No. 7076 – Phase II, Pinewood Well (Staff Contact: Andrew Brozyna, 586-3315)**

**Background:** At the July 18, 2006 meeting, City Council rejected the bids for the Well Upgrade Program (Curtis and Pinewood Wells) due to extremely high bids, caused by the construction impacts from Hurricane Katrina. City Council directed staff to repackage and re-advertise the project with a reduced scope to include the necessary upgrades for the chlorination/ammoniation improvements at Pinewood Well. The Engineer's Estimate for the Pinewood Well improvements is \$325,000.

The project was advertised and sealed bid proposals were opened on Tuesday, October 17, 2006. Two bid proposals were received in the amounts of \$341,000 and \$418,000. The lower responsible bidder is Blocka Construction, Inc. There are sufficient funds in the project budget to cover these costs.

**Recommendation:** Award the construction contract for the Well Upgrade Program, Project No. 7076 – Phase II, Pinewood Well to Blocka Construction, Inc., in the amount of \$341,000.

**XX. ADJOURNMENT**

**NEXT REGULARLY SCHEDULED COUNCIL MEETING  
TUESDAY, NOVEMBER 21, 2006, AT 7:00 P.M.**